



International Jurisdiction and Commercial Litigation: Uniform Rules for Contract Disputes

Hélène van Lith

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avoiding gaps and provide a claimant with limited forum shopping possibilities. In that same vein, the paradigm proposed by Ms. Van Lith ought to shift to special grounds of jurisdiction based on sufficient connection between the defendant and the forum state. In that respect, she proposes jurisdiction at the place where the defendant has a fixed place of business from which he carries out business activities directly related to the claimant's contractual claim. Absent such a place of business, jurisdiction is to be vested in the courts of the country where the defendant is engaged in substantial business activities in relation to the contract with a limited forum shopping for a claimant in favour of the court of the defendant's home country. Other general or special grounds for jurisdiction (such as claimant-related connections or property-based connections) are rejected because they do not meet the proposed paradigm of sufficient connection. As to exceptions to international jurisdiction rules as proposed, Ms. Van Lith comes to the conclusion that a general escape provision is to be avoided except for the 'tra-acting business' rule where – in accordance with the paradigm proposed – international jurisdiction can be avoided in favour of the defendant's home court when the dispute is insufficiently connected with the forum making it unfair under the circumstances to expect the defendant to be subjected to the jurisdiction of that court. In this respect, a balanced approach to predictability and flexibility is being proposed.

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